BEFORE THE NORTH CAROLINA

UTILITIES COMMISSION

DOCKET NO. SP-100, SUB 31

In the Matter of: Request by NC WARN for a Determination that its Proposed Activities would not Cause it to be Regarded as a Public Utility Pursuant to N.C. Gen. Stat. § 62-3(23)	)	**REPLY COMMENTS OF NORTH CAROLINA INTERFAITH POWER & LIGHT**

North Carolina Interfaith Power and Light ("NCIPL") submits these Reply Comments pursuant to the North Carolina Utilities Commission's (the "Commission") September 30, 2015 Order Requesting Comments, which set a Reply Comment deadline of November 20, 2015.

INTRODUCTION

The Commission has the authority to determine whether any given transaction subjects a party to regulation as a "public utility" under North Carolina law. The regulatory circumstances, prior North Carolina decisions, persuasive authority, and legislative public policy favor a ruling that power purchase agreement ("PPA") financing arrangements for solar photovoltaic ("PV") systems—like the contract between Faith Community Church and NC WARN—do not run afoul of the State's "public utility" regulation.

I. THE COMMISSION HAS THE AUTHORITY TO DETERMINE THAT NC WARN IS NOT OPERATING AS A "PUBLIC UTILITY"

The Commission has the authority to issue a declaratory ruling clarifying that NC WARN and other third-party PPA financing providers do not come under the definition of a "public utility" at N.C. Gen. Stat. § 62-3(23). Whether a sale is "to or for the public" can only be determined following a hard look at the underlying transaction. The state Supreme Court has set forth the circumstances that must be considered when making this determination. *State ex rel. Utilities Com. v. Simpson*, 295 N.C. 519, 246 S.E.2d 753 (1978).

Under *Simpson,* the Commission must consider the regulatory circumstances of the solar power purchase transaction and the relevant legislative public policy of the State. The Commission has applied this test to previously determine that certain kinds of solar power transactions—including those not expressly referenced in the Public Utilities Act—do not involve sales to the public under the statutory definition of "public utility." *See Request by Progress Solar Investments, LLC, and Progress Solar Solutions, LLC*, N.C.U.C. Docket No. SP-100, Sub 24 (Nov. 25, 2009); *In the Matter of Application of FLS YK Farm, LLC for Registration of a New Renewable Energy Facility*, N.C.U.C. Docket No. RET-4, Sub 0 (Apr. 22, 2009). Any effort to rely on an overly literal reading of the statute alone, without appropriate consideration of the *Simpson* factors and legislative public policy should be rejected. *See, e.g.*, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, "Duke Energy") Initial Comments at 4–5; Dominion North Carolina Power Initial Comments at 7–8; North Carolina Electric Membership Corporation Initial Comments at 1–2; Public Staff Initial Comments at 2. As recognized by the Energy Freedom Coalition in its Initial Comments, the "[i]nterpretation

of what it is meant by 'public' or 'to or for the public' has been left to the Commission and to the courts." Energy Freedom Coalition of America, LLC Initial Comments at 7–8.

Similarly, legislative inaction on third-party PPA financing for solar PV systems does not prevent the Commission from ruling on NC WARN's request. As cautioned by the U.S. Supreme Court, "Congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction." *United States v. Craft,* 535 U.S. 274, 287, 122 S.Ct. 1414, 1425, 152 L.Ed.2d 437 (2002). The North Carolina Supreme Court has followed suit, declaring that "[o]rdinarily, the intent of the legislature is indicated by its actions, and not by its failure to act." *Styers v. Phillips,* 277 N.C. 460, 472, 178 S.E.2d 583, 590 (1971); *see also State v. Davis*, 364 N.C. 297, 304, 698 S.E.2d 65, 69 (2010) (citing *Styers*); *State v. Ellison*, 366 N.C. 439, 446-47, 738 S.E.2d 161, 166-67 (2013) (concurring opinion) (citing *Styers*). "Legislative inaction has been called a 'weak reed upon which to lean' and a 'poor beacon to follow' in construing a statute." *DiDonato v. Wortman,* 320 N.C. 423, 425, 358 S.E.2d 489, 490 (1987) (quoting 2A N. Singer, Sutherland Statutory Construction 407 (1984)).

Duke Energy, Dominion North Carolina Power, North Carolina Electric Membership Corporation, and the Public Staff reference the failure of the North Carolina General Assembly to pass House Bill 245 in their initial comments. The Public Staff in particular argues that without legislative action, the Commission is prevented from allowing "third-party sales of Commission regulated electricity services to the public for compensation." Public Staff Initial Comments at 5. But these Comments put the cart before the horse. The question before the Commission is whether a PPA used to finance behind-the-meter installation of a solar PV system on the property of—and for the use

of—a religious institution or similar consumer constitutes a sale of regulated electricity services "to the public" under the existing definition of "public utility" at N.C. Gen. Stat. § 62-3(23). The North Carolina General Assembly's failure to adopt House Bill 245 does not prevent the Commission from issuing a declaratory ruling as to whether NC WARN or similar solar PV PPA providers are serving as a public utility "to or for the public" under current North Carolina law. The *Simpson* regulatory circumstances test, existing North Carolina legislative policy, and persuasive decisions applying the regulatory circumstances analysis are the appropriate legal standards in this case. As cautioned by the Courts, the Commission should not be swayed by references to legislative inaction related to third-party financing of solar PV systems.

II. THE OUTCOME IN *NATIONAL SPINNING* DOES NOT DICTATE A FINDING THAT NC WARN HAS ACTED AS A PUBLIC UTILITY

Over-reliance on *National Spinning* is misplaced. *Request for a Declaratory Ruling by National Spinning Company, Inc. and Wayne S. Leary,d/b/a Leary's Consultative Services*, N.C.U.C. Docket SP-100, Sub 7 (April 22, 1996). In their initial comments, Duke Energy, Dominion North Carolina Power, ElectriCities, and the Public Staff urge the Commission to rely heavily on the Commission's 1996 decision in *National Spinning* to rule against NC WARN's request for a declaratory ruling. Indeed, the Public Staff relies exclusively on *National Spinning*, and fails to analyze any other Commission or court ruling interpreting the definition of "public utility" and "to or for the public" subsequent to *National Spinning*. Yet *National Spinning* is readily distinguishable in its scale, timing, and generating facility details.

A. *National Spinning* involved a large, industrial petitioner and industrial-size generation facility

The size and impact of the proposed electricity generation equipment in *National Spinning* was markedly different from NC WARN and the Faith Community Church's solar PV array. National Spinning was a large industrial electricity customer proposing a 7 megawatt ("MW") generation facility. National Spinning purchased approximately 58,000,000 to 60,000,000 kilowatt hours ("kWhs") annually from Carolina Power & Light, paying over $3 million in electricity bills in 1994. In contrast to the 7 MW facility proposed in *National Spinning*, the solar PV system installed on the Faith Community Church is only 5.2 kilowatts ("kW"), more than 1,000 times smaller than the industrial gas, steam, and electricity generating equipment at issue in *National Spinning*. The initial month's power payment for Faith Community Church's 5.2 kW solar system's was $76.49, for 1423 kWh of production. The Church's payment is in stark contrast to the $3,100,000 per year, or approximately $258,300 per month that National Spinning paid for electricity in 1994. The solar PV system's production of 1423 kWh for one month for the Faith Community Church is likewise far below the average of around 5,000,000 kWh per month used by National Spinning.[1]

The large industrial nature of National Spinning's operations and extent of its electricity purchases played a significant role in the Commission's *Simpson* analysis. As noted in the Commission's *National Spinning* decision, "large industries are very desirable customers for the regulated utilities. They generally have high load factors, and the regulated electric utilities' generation plant has been planned and built to serve them

[1] It is also less than the "projected annual sales [of] 386,000 kWh-equivalents per year," or an average of over 32,000 kWh-equivalents per month, at issue in *FLS YK Farm*, where the Commission approved a third-party financing arrangement for 131 solar thermal panels at the Kanuga Conference Center. *In the Matter of Application of FLS YK Farm, LLC for Registration of a New Renewable Energy Facility*, N.C.U.C. Docket No. RET-4, Sub 0 (Apr. 22, 2009).

reliably." *Id.* The Faith Community Church and NC WARN's solar PPA equipment and financing arrangement are orders of magnitude smaller than that of National Spinning's proposed arrangement, and will not have the same impact on Duke Energy's industrial customer sales as National Spinning's agreement would have had on Carolina Power & Light. The size of the Faith Community Church and NC WARN's solar PV system is typical for homeowners, small business owners, and faith congregations.

B. *National Spinning* pre-dated relevant legislative public policy provisions promoting renewable energy

The relevant public policy considerations have shifted in favor of increased renewable energy production since *National Spinning* was decided twenty years ago. In 2007, the North Carolina General Assembly adopted Senate Bill 3, which added the following provisions to the Declaration of Policy found in the Public Utilities Act at N.C. Gen. Stat. § 62-2:

> It is hereby declared to be the policy of the State of North Carolina:
>
> …
>
> (10) To promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) that will do all of the following:
>
> a. Diversify the resources used to reliably meet the energy needs of consumers in the State.
>
> b. Provide greater energy security through the use of indigenous energy resources available within the State.
>
> c. Encourage private investment in renewable energy and energy efficiency.
>
> d. Provide improved air quality and other benefits to energy consumers and citizens of the State.

2007 North Carolina Laws S.L. 2007-397 (S.B. 3).

The 2007 changes to the Public Utilities Act have factored into the Commission's *Simpson* analysis in multiple declaratory rulings since *National Spinning.* The Commission referenced the law in *Progress Solar*, determining that the supply of solar-powered street lighting was "consistent with the recently enacted policy of the State to promote the development of renewable resources." *In the Matter of Request by Progress Solar Investments, LLC, and Progress Solar Solutions, LLC*, N.C.U.C. Docket No. SP-100, Sub 24 (Nov. 25, 2009). In *FLS YK Farm*, the Commission similarly concluded that a solar thermal panel third-party financing provider was not a public utility when it entered into an arrangement to install and own solar thermal panels and sell British thermal units to the Kanuga Conference Center. With the support of the Public Staff, the Commission ruled that the FLS YK Farm proposal and others like it "are consistent with the recently enacted policy of the State to promote the development of renewable energy for the purposes of diversifying indigenous resources, encouraging private investment in renewable energy, and improving air quality." *In the Matter of Application of FLS YK Farm, LLC for Registration of a New Renewable Energy Facility*, N.C.U.C. Docket No. RET-4, Sub 0 (Apr. 22, 2009). [2] A similar conclusion was reached in the Commission's 2009 Order expanding net metering eligibility to renewable generation with capacity up to 1 MW, as articulated by the Energy Freedom Coalition in its Initial Comments. Energy Freedom Coalition of America Initial Comments at 19–20 and n. 29 (distinguishing *National Spinning* and including a quote from the Commission's net

[2] It is worth noting that the Commission may consider its declaratory rulings such as *FLS YK Farm* even where the ruling was made on a "case-by-case" basis and includes a disclaimer regarding precedential value. The Commission has relied on such declaratory rulings in the past. *See, e.g.*, *In the Matter of Request for A Declaratory Ruling by ReVenture Park Investments I, LLC*, SP-100, Sub 28 (Apr. 18, 2011) (referencing a prior "case-by-case" determination and stating that "the Commission is not persuaded that there is any reason to reach a different conclusion in this docket"); *In Re Wake Landfill Gas Co., LLC*, SP-100, SUB 9, (July 31, 1996) (holding that landfill gas company was not a public utility and relying in part on similarity to prior ruling that included "case-by-case" disclaimer).

metering order that "… the clearly enunciated State policy favoring development of additional renewable generation support[s] expanding net metering eligibility to renewable generation with capacity up to 1 MW").

Duke Energy, Dominion North Carolina Power, and the Public Staff ignore the significance of these more recent articulations of the State's public policy. *See* Duke Energy Initial Comments at 7; Dominion North Carolina Power Initial Comments at 6 (pointing to *pre*-2007 Commission decisions with language that "*nothing else appearing*, the public is better served by a regulated monopoly than by competing suppliers of the service." (emphasis added)); Public Staff Initial Comments at 2. Given changes in North Carolina Public Utility law and State policy since the mid-1990s, the generic public policy statement in favor of regulated monopolies does not support Duke Energy and Dominion's position.

The statutory requirement for a certificate of public convenience and necessity ("CPCN") was important to the Commission's public policy analysis in *National Spinning*. The requirement for such a certificate informed the Commission's conclusion that, "nothing else appearing," the public is better served by the monopoly. But since that 1996 Order, other factors have appeared. In stark contrast to the transaction in *National Spinning*, North Carolina law explicitly does not require a CPCN for solar PV systems under two megawatts in capacity. N.C. Gen. § 62-110.1(g). As such, a small-scale solar PV system, like the one installed by NC WARN for the use of Faith Community Church, is deemed by North Carolina law to not interfere with the service provided by regulated public utilities such that a CPCN is needed. It is the public policy of this State that

customers are well served by renewable power generation, regardless of which regulated monopoly otherwise serves that territory.

For the same reason, "slippery slope" arguments in this proceeding must fail. The State's express public policy encourages and allows renewable energy generation, including promoting private investment and exempting systems under two megawatts from CPCN requirements. This express State policy overshadows utility arguments that there is potential in the future for lost market shares. The General Assembly has already decided that the benefits of renewable energy outweigh such concerns. As emphasized in *Simpson*, "[t]he meaning of 'public' must in the final analysis be such as will, in the context of the regulatory circumstances … accomplish 'the legislature's purpose and comports with its public policy.' " *See State ex rel. Utilities Com. v. Simpson*, 295 N.C. 519, 524, 246 S.E.2d 753, 756–57 (1978).

The more recent legislative policy statements appearing in the Public Utilities Act since 2007 that specifically promote the development of renewable energy, including through private investment, must be part of the *Simpson* analysis in this proceeding.

C. *National Spinning* involved a complex transaction of direct sales of steam and gas between two industrial entities

The PPA arrangement between the Faith Community Church and NC WARN is primarily a financing service arrangement. As NCIPL emphasized in its initial comments and as echoed by the Christian Coalition of North Carolina, many faith congregations and other nonprofits recognize a moral obligation to support clean, renewable energy. *See* Christian Coalition of North Carolina Statement at 1–2. But they often lack the financial resources to purchase such systems outright. The PPA provides a church, nonprofit, or individuals of modest means with an alternative way to pay for a solar PV system, a

renewable energy system that is typically allowed and encouraged under North Carolina law.

In contrast to a solar PPA, which is a financing arrangement to help pay for solar panels, National Spinning and Leary (the other party to the *National Spinning* arrangement) proposed an industrial arrangement to directly sell gas and steam for electricity back and forth, between their equipment components. In the proposed arrangement, National Spinning would have owned an industrial gasifier for gasifying wood waste and sold the resulting gas to Leary. The gas purchased by Leary would have then been delivered to a high pressure boiler by induction fans, and used in the boiler to generate high pressure steam to be sold back to National Spinning. The steam purchased by National Spinning would then be used generate electricity for its industrial needs.

The Faith Community Church's solar PV system financed by NC WARN is a far simpler arrangement. Their PPA is typical of residential and small commercial solar PPAs in other states, in that it primarily provides an alternative financing service for solar PV panels to avoid the need to pay for panels in one up-front lump sum.[3] The Faith Community Church is paying for the solar PV panels based on the amount of electricity produced each month, but there is no complex back and forth transaction of steam, gas, and electricity on an industrial scale as in *National Spinning*.

[3] As noted by NC WARN in its original Request, "Duke Energy does not have any programs, nor has it proposed any programs, that provide these types of funding mechanisms for roof-top solar systems." NC WARN Request for Declaratory Ruling at 8, 10.

III. THE COMMISSION'S CONSIDERATION OF PUBLIC POLICY AND CONTRACTUAL ARRANGEMENTS IN *PROGRESS SOLAR* REMAINS PERSUASIVE

The Commission's *Progress Solar* decision provides an example of the Commission using the *Simpson* test to declare a potentially regulated solar power transaction as not involving sales to the public. *In Re: Request by Progress Solar Investments, LLC, and Progress Solar Solutions, LLC, for a Determination*, N.C.U.C. Docket No. SP-100, Sub 24 (Nov. 25, 2009). Both Duke Energy and Dominion North Carolina Power argue that a direct generation or sale of electricity was not at issue in *Progress Solar*. But they do not explain why this should matter. The statutory definition of "public utility" includes within its orbit those who operate "facilities for producing…or furnishing electricity or any other like agency for the production of light…to or for the public for compensation." N.C. Gen. Stat. § 62-3(23). But, as recognized by the Commission, the analysis does not end with a narrow reading of the statute. Despite Progress Solar's provision of electricity or "other like agency" for light production, the phrase "to or for the public" had to be considered and the *Simpson* regulatory circumstances test applied.

Under the transactions at issue in *Progress Solar*, the petitioners proposed to install and operate solar powered LED lights—facilities generating electricity or "other like agency" for the production of light—on others' property. The contracting entities would pay fixed monthly rates for the light produced by the systems. Those payments would be made pursuant to solar service agreements. Consistent with State law, the Commission applied the *Simpson* factors to determine that Progress Solar would not be providing electricity or other like agency "to or for the public."

The Commission emphasized the bargained-for transactional and contractual nature of Progress Solar's proposed solar lighting financing arrangements. According to the Commission, Progress Solar "will not be holding itself out to provide solar lighting to the general public, and the lighting will be provided only as a result of bargained for transactions and pursuant to agreed-upon terms and conditions." *Progress Solar*.[4] The Commission also pointed to the State's public policy to determine that the "use of solar resources to provide lighting … is consistent with the recently enacted policy of the State to promote the development of renewable resources." *Id.* Just as these factors influenced the Commission's *Progress Solar* decision, so should they be considered in the current proceeding. A PPA for financing a consumer's solar PV system for their on-site energy use, such as the Faith Community Church and NC WARN's PPA, is a bargained-for transactional contract, and it furthers the State public policy goal of promoting renewable energy, including through private investment.

IV. *EAGLE POINT* IS RELEVANT AND PERSUASIVE AUTHORITY

According to Duke Energy, the Commission should not consider *SZ Enterprises, LLC d/b/a Eagle Point v. Iowa Utilities Bd.*, 850 N.W.2d 441, 453-54 (Iowa 2014), because it is "based upon Iowa law and precedent, which is contrary to North Carolina law and precedent." Duke Energy's Initial Comments at 10. No party argued that the Iowa Supreme Court's decision is binding but it is persuasive authority. And Duke Energy is wrong to label the case "contrary" to North Carolina law. Indeed, the statutory

[4] This emphasis on the bargained-for, contractual nature of the transactions in *Progress Solar* also distinguishes it and Faith Community Church's arrangement with NC WARN from a Commission decision cited by Dominion North Carolina Power in its Initial Comments at page 15. In the decision cited by Dominion, the petitioner planned to give away electricity to its host without any bargained-for compensation in return, opening the door for "hidden compensation" in future transactions. *See* Dominion North Carolina Power Initial Comments at 15; *In the Matter of Application of W.E. Partners 1, LLC, for Registration of a New Renewable Energy Facility,* N.C.U.C. Docket No. SP-729, Sub 1 (Sept. 17, 2012).

definitions of "public utility" are nearly identical in both states. The North Carolina Supreme Court even referred to Iowa law in deciding *Simpson. State ex rel. Utilities Com. v. Simpson*, 295 N.C. 519, 246 S.E.2d 753 (1978). Directly citing to an Iowa Supreme Court case, the North Carolina Supreme Court wrote:

> This kind of [regulatory circumstances] ad hoc approach has been adopted by the Supreme Courts of Iowa and New Mexico. Both have refused to endorse inflexible definitions of "public," identifying instead the standard 'sales to sufficient of the public to clothe the operation with a public interest.' It is this type of flexible interpretation that is necessary to comport legislative purpose with the variable nature of modern technology.

State ex rel. Utilities Com. v. Simpson, 295 N.C. 519, 524, 246 S.E.2d 753, 757 (1978) (citing *Iowa State Commerce Comm. v. Northern Natural Gas Co.*, supra, 161 N.W.2d 111, 114 (Iowa 1968)). Both that older Iowa case, and *Simpson* itself, were in turn cited by the Iowa Supreme Court in *Eagle Point.* Far from being contrary, these two state's decisions are remarkably in sync.

In its Initial Comments, NCIPL details the extensive similarities between the facts and the law of the *Eagle Point* decision and NC WARN's petition for declaratory ruling before the North Carolina Commission. These similarities and the persuasive weight of Iowa authority warrant a close review by the Commission.

V. IMPOSING FINES ON NCWARN WOULD BE UNJUST AND INEQUITABLE

Duke Energy has requested that the Commission issue fines of up to $1,000 per day for NC WARN's arrangement with the Faith Community Church. As set forth in NCIPL's Initial Comments and in these Reply Comments, the facts and law support a finding that NC WARN has not operated as a public utility under the *Simpson* regulatory circumstances test and State policy, and no fines are warranted. Moreover, the fines requested are unjust and inequitable given the circumstances. Issuing fines under N.C.

Gen. Stat. § 62-310 is left to the Commission's discretion and influenced by what is just.[5] The Faith Community Church's PPA with NC WARN includes specific provisions to protect the Church in the event of an adverse legal ruling. NC WARN has agreed to donate the solar PV installation to the Church and to reimburse the Church for any payments made in the event that they are prohibited from following through on the contractual arrangement. These protective provisions for the Faith Community Church, combined with Duke Energy's willingness to interconnect the system[6] and the legal merit behind NC WARN's request for a declaratory ruling all support a decision that no fines are warranted.

CONCLUSION

NCIPL submits these Reply Comments to further support a ruling from the Commission that would allow PPA financing for solar PV systems for the Faith Community Church of Greensboro and for other similarly situated congregations that would like to install solar panels, but struggle with the upfront capital to do so. The regulatory circumstances of this proceeding, along with legislative public policy promoting renewable energy, and prior legal decisions within and outside of North Carolina all support a favorable ruling from the Commission.

---

[5] *See, e.g.*, *In the Matter of Application by Carolina Water Serv., Inc. of N. Carolina for Auth. to Transfer the Water & Sewer Util. Sys. Serving Cabarrus Woods, et. al*, N.C.U.C. Docket No. W-354, Sub 331 (June 4, 2012) (declining to issue fines for a public utility's failure to comply with notice provisions of a Commission order based on mitigating circumstances). Furthermore, in requesting fines, Duke Energy cites only to Commission fines related to moving companies, rather than any organization or situation similar to NC WARN or its contract with the Faith Community Church. *See* Duke Energy Initial Comments at 12–13.

[6] Described in Duke Energy's June 23, 2015 letter, attached to Duke Energy's Initial Comments in this proceeding.

Respectfully submitted this 20th day of November, 2015.

s/ David Neal
N.C. Bar No. 27992
dneal@selcnc.org

s/ Lauren Bowen
N.C. Bar No. 48835
lbowen@selcnc.org

Southern Environmental Law Center
601 West Rosemary Street, Suite 220
Chapel Hill, NC 27516
Telephone: (919) 967-1450
Fax: (919) 929-9421

Attorneys for North Carolina Interfaith Power & Light

CERTIFICATE OF SERVICE

I certify that the persons on the service list have been served with the foregoing Reply Comments of North Carolina Interfaith Power & Light either by electronic mail or by deposit in the U.S. Mail, postage prepaid.

Richard Feathers, Esq.
Associate General Counsel
N.C. Electric Membership Corporation
P.O. Box 27306
Raleigh, NC 27611-7306
rick.feathers@ncemcs.com

Sharon Miller
Carolina Utility Customer Association, Inc.
Suite 210 Trawick Professional Center
1708 Trawick Rd.
Raleigh, NC 27604
smiller@cucainc.org

John Runkle, Esq.
2121 Damascus Church Rd.
Chapel Hill, NC 27516
jrunkle@pricecreek.com

Michael D. Youth, Esq.
N.C. Sustainability Energy Association
4800 Six Forks Rd., Ste. 300
Raleigh, NC 27609
michael@energync.org

Robert Page, Esq.
Crisp, Page & Currin, L.L.P.
Suite 205
4010 Barrett Dr.
Raleigh, NC 27609
rpage@cpclaw.com

NC WARN
2812 Hillsborough Rd.
Durham, NC 27705
jim@ncwarn.org

Lawrence B. Somers, Esq.
Deputy General Counsel
Duke Energy Corporation
PO Box 1551/NCRH20
Raleigh, NC 27602-1551
Bo.somers@duke-energy.com

Kendrick C Fentress, Esq.
Asst. General Counsel
Duke Energy Corporation
P.O. Box 1551/PEB 20
Raleigh, NC 27602
Kendrick.Fentress@duke-energy.com

Horace P Payne, Esq.
Senior Counsel
Dominion Resources Services, Inc.
Law Department
120 Tredegar Street
Richmond, VA 23219
Horace.p.payne@dom.com

ElectriCities of North Carolina, Inc.
NC Municipal Power Agency
Number 1
NC Eastern Municipal Power Agency
1427 Meadow Wood Blvd
Raleigh, NC 27605

Bruce Plenk
Solar Possibilities Consulting
solarlawyeraz@gmail.com

Daniel Higgins
Burns Day and Presnell, P.A.
PO Box 10867
Raleigh, NC 27605
dhiggins@bdppa.com

Thad Culley, Esq.
Keyes, Fox & Wiedman LLP
401 Harrison Oaks Blvd., Ste. 100
Cary, NC 27513
tculley@kfwlaw.com

This the 20th day of November, 2015.

s/ Pat Dunlop
Pat Dunlop